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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 338
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 338's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Johnson and Plummer

Local Impact Statement Procedure Required: Yes

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Highlights

- Expands the offense of aggravated murder to (1) prohibit causing the death of specific persons interacting with a correctional department, institution, or facility, and (2) prohibit causing the death of such persons when it is the offender's specific purpose to kill those persons. This expansion could result in one or more death penalty cases. A single death penalty case would be fiscally significant for any county responsible for trying and sentencing defendants in such cases.
- The bill's various other penalty enhancements will likely have an impact on prison bed counts over a period of time. Based on present day cost figures, such an increase could result in annual expenditure increases of varying magnitude, peaking several years after the bill's enactment.
- The bill's changes to Department of Rehabilitation and Correction (DRC) policies and procedures will create administrative costs for the Department to modify rules and update existing procedures as necessary. However, it is possible that some of the policy requirements may, at least partially, reflect current practice which would limit such costs.
- Requiring DRC to pay the Department of Administrative Services (DAS) for the total cost of a surviving spouse's health, medical, hospital, dental, surgical, or vision benefit, plus any applicable administrative costs, will increase DRC's costs associated with health insurance benefits. The costs would depend on the number of such surviving spouses who would enroll in the plans, including premiums and administrative costs.
- Requiring any public employee benefit plan delivered or issued for delivery, modified, or renewed on or after January 1, 2026, to provide coverage for the full cost of mental health services for certain individuals without imposing a coverage limit, copayment,

coinsurance, deductible, or other out-of-pocket expense requirement for required coverage would increase costs to the state and local governments by an undetermined amount. Any local governments that have already complied with the required mental health services coverage under the bill would have no direct fiscal effect.

Detailed Analysis

The bill, to be known as Andy's Law, makes several changes to certain criminal offenses tied to activity within or associated with state or local correctional institutions. The bill also requires the Department of Rehabilitation and Correction (DRC) to adopt rules and implement several new policies associated with the management of their institutions, staff, and inmate population, including developing a registry of inmate sex offenders. Finally, the bill provides for certain health benefits to the surviving spouse of a corrections officer killed in the line of duty and mental health benefits to certain classes of individuals. The following fiscal analysis is organized under four main categories: (1) criminal offense provisions, (2) DRC policies, (3) DRC registry of sex offenders, and (4) health benefits.

Criminal offense provisions

The bill enhances penalties for several offenses, including assaults and homicides involving specific victims within state or local correctional institutions. See the LSC bill analysis for a complete explanation of these changes.

Generally, the fiscal impacts will be limited to a small subset of offenses involving the bill's narrow circumstances. Data related to these subsets is unavailable. However, the likely impact is that some offenders will face longer sentences, eventually resulting in a "stacking effect" on bed counts. LBO has requested a population and cost impact statement from DRC and will update this fiscal note when that information becomes available.[1] While DRC's inmate population will likely grow over time, the costs associated with those increases could follow one of two formulas. Generally, DRC advises LBO which formula is appropriate for the circumstances described under a bill. However, if population numbers are expected to increase beyond current anticipated rates, the institutional cost scenario is typically advised. LBO will update this analysis if additional information is provided by DRC. Until then, the two cost basis scenarios are summarized as follows.

Marginal cost scenario

According to the DRC 2025 Annual Report, the average marginal cost to house an additional offender was $13.47 per day or $4,617 per year. Marginal costs, as defined by DRC, are those that increase or decrease directly on a per-person basis with changes in prison population. The major categories that comprise marginal costs, from largest to smallest, are:

- Medical (pharmaceuticals, medical supplies, hospitalization, and ambulance services);
- Food Service;
- Storeroom/Quartermaster (clothing, mattresses, and sheets and blankets); and

[1] R.C. 5120.51.

- Mental Health (pharmaceuticals and mental health supplies).

Institutional cost scenario

According to the DRC 2025 Annual Report, the average institutional cost to house an offender was $109.57 per day or $39,993 per year. Institutional costs are calculated by dividing all DRC operating costs by the number of housed offenders, for a certain period of time. Included in this cost are items such as employee salaries, building costs and maintenance, and other items of expense that are incurred regardless of inmate population.

Under the bill, the Department of Youth Services (DYS) could also experience an increase in population size over time. DYS's average daily facility population in FY 2024 was around 500. The marginal cost to add a juvenile to that population is around $44.55 per day, or about $16,261 per year.

Expansion of aggravated murder

The bill expands aggravated murder to prohibit purposely causing the death of a person whom the offender knows or reasonably has cause to know is any of the following: a visitor; a volunteer; a person on the grounds of a state correctional institution or local correctional facility; an employee of DRC, DYS, or a probation department; or a contractor providing services to DRC or DYS. This expansion applies in either of the following circumstances: (1) the victim is a visitor, volunteer, or person on the grounds of a state or local correctional facility at the time of the offense, or (2) it is the offender's specific purpose to kill any of the aforementioned individuals. The bill requires the trial court to impose a sentence of life imprisonment without parole with the offender serving the sentence at a high security prison for at least ten years.

Under continuing law, aggravated murder generally is a first degree felony punishable by imprisonment for life with or without the possibility of parole and a fine of up to $25,000. Offenses of aggravated murder may also be eligible for the death penalty if one or more specified aggravating factors is proved beyond a reasonable doubt.

Fiscal effect – expansion of aggravated murder

Trial

As a result of the expanded offense, there will likely be an elevation of certain cases currently charged as a homicide, manslaughter, or murder to being charged as aggravated murder. The county is responsible for trying and sentencing defendants in aggravated murder cases. This includes both the costs for the prosecution and defense counsel, as many defendants in murder cases are indigent. Any aggravated murder trial, regardless of the presence of a death specification, will likely incur costs for expert witness consultation and testimony, psychologists, and investigators. Those costs are not likely to differ significantly based solely on the presence or absence of a death specification, however, death penalty cases are bifurcated, meaning there are two phases: a guilt phase and a penalty phase. As such, many of the costs incurred in the guilt phase tend to be duplicated in the penalty phase, thereby significantly increasing the overall costs to try a death penalty case. Other costs, such as jury compensation, defense mitigation and prosecution experts, the number of defense attorneys required, and defense counsel compensation vary by case and by county. Additional costs also may be incurred by the Office of the State Public Defender to reimburse counties for all or a portion of their costs incurred in the provision of legal representation to indigent defendants.

Incarceration

For those offenders already serving a term of incarceration, they will likely be sentenced to additional time in prison and moved to a higher security facility, as required under the bill (at a greater cost to DRC). It is also likely that a number of new offenders could be sentenced to longer terms if their offense involved a victim under the expanded category as described above.

According to DRC's most recent published data on the average time served in prison for a felony offense (2016), the average time served for a murder offender is 24.46 years, and the average time served for an aggravated murder offender is 31.76 years.[2] A single offense of murder elevated to aggravated murder results in an additional 7.3 years in prison, an additional cost of $291,949 to DRC per offender based on DRC's average daily institutional cost per inmate in FY 2025 ($109.57). LBO has opted to use the institutional cost rate rather than the marginal rate due to the high likelihood of a stacking effect and due to the requirement that offenders be moved to a higher security facility. "Stacking" refers to the increase in the prison population that occurs as certain offenders currently serving time stay in prison longer while the number of new offenders entering the prison system does not decrease.

Penalty modifications and increases

Assault

The bill increases the penalty for assault from a fifth degree felony to a third degree felony in specified circumstances involving an assault that occurs on or off the grounds of a state or local correctional facility or DYS institution. This increase mirrors the existing penalty level for assaults that occur in or on the grounds of a state correctional institution or a DYS institution when the victim is an employee and the offender is a person who is incarcerated or institutionalized. The bill also creates a seven-year additional definite prison term for assault or felonious assault of a visitor, volunteer, employee, or contractor at a prison, jail, youth facility, or probation department.

Most notably for fiscal effect purposes, the bill's penalty enhancements will likely result in some number of offenders being sentenced to prison for longer terms. A fifth degree felony is punishable by a fine up to $2,500, and a possible term of 6, 7, 8, 9, 10, 11, or 12 months imprisonment, or both. A third degree felony is punishable by a fine up to $10,000, and a possible definite minimum term of 9, 12, 18, 24, 30, or 36 months imprisonment, or both. However, the offender may be sentenced to a mandatory seven-year additional term if convicted of or pleads guilty to the offense with the bill's new specification.

Illegal conveyance of communications devices and drugs of abuse

The bill increases the penalties for violations associated with illegal conveyance of communications devices and drugs of abuse for offenders who are visitors, volunteers, or person on the grounds of a state correctional institution or local correctional facility, or contractors or employees of contractors providing services to DRC or DYS. For such violations involving the conveyance of drugs of abuse, the bill increases the penalty from a third degree felony to a first degree felony, and increases the penalty for violations involving a communications device from

[2] See DRC's 2016 Time Served Report, which is available on the Department's website via keyword search "Time Served": drc.ohio.gov.

a fifth degree felony to a first degree felony. The bill requires the court to impose a mandatory prison term for such offenders from the range of definite prison terms prescribed for a first degree felony. This sentencing change will result in some offenders being sentenced to a longer term. A third degree felony is punishable by a fine up to $10,000, and a possible term of 9, 12, 18, 24, 30, or 36 months imprisonment. A fifth degree felony is punishable by a fine up to $2,500, and a possible term of 6, 7, 8, 9, 10, 11, or 12 months imprisonment, or both. With the mandatory sentence, offenders will instead face a term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years (the range under a felony of the first degree).

Harassment by inmate

The bill establishes mandatory prison terms for the offense of harassment with a bodily substance. It requires the court to impose a mandatory prison term of at least three but no more than four years for an offender who commits the offense against any person, including a law enforcement officer. However, if the offender knows they are a carrier of HIV/AIDS, a hepatitis virus, or is infected with tuberculosis at the time of the offense, the mandatory prison term increases to at least three years but no more than six years.

Harassment with a bodily substance is a fifth degree felony, punishable by a fine up to $2,500, and a possible term of 6, 7, 8, 9, 10, 11, or 12 months imprisonment, or both. With the mandatory sentence, offenders will instead face a term of three to four years. Offenses when the offender knows that the offender is a carrier of one of the specified viruses is a third degree felony, punishable by a fine up to $10,000, and a possible term of 9, 12, 18, 24, 30, or 36 months imprisonment. With the mandatory sentence, offenders will instead face a term of three to six years.

Fiscal effect – penalty modifications and increases

The bill is not expected to create additional cases as it largely maintains existing prohibitions for offenses of assault, legal conveyance of communications devices and drugs of abuse, and harassment by an inmate. Rather the bill may impact the way that existing cases are adjudicated and ultimately subjected to the penalties outlined in the bill. LBO has not collected any evidence suggesting that the bill will have a significant effect on county criminal and juvenile justice systems for adjudication purposes. As these are generally already felony level offenses, cases will remain under the jurisdiction of county courts of common pleas. The net result will likely be a complicated mix of potential outcomes, largely impacting DRC, DYS, and courts of common pleas.

The bill will likely result in increased incarceration costs to DRC and DYS over time. Increasing the penalty for these offenses and under the specific circumstances as described in the bill, some offenders will face longer sentences, eventually resulting in a "stacking effect" on bed counts.

The actual increase in costs for DRC will depend on the number of offenders who ultimately serve longer sentences under the bill than they otherwise would have under existing law, the additional length of the term, and the marginal/institutional cost per offender in each additional year of that term. DRC's total GRF institutional operating costs for FY 2025 totaled approximately $1.38 billion. DYS will also likely experience an increase in supervision costs, but to a lesser degree comparatively.

DRC policies

The bill establishes several new requirements that may impact DRC's operational procedures and security protocols. As such, DRC may incur administrative costs to modify rules and update existing procedures as necessary to comply with the bill's requirements. However, it is possible that some of these requirements, at least partially, reflect current practices which would limit costs.

Regarding personnel, the bill specifies new experience requirements for certain leadership positions. It requires the DRC Director to have prior employment experience consisting of at least five years in a security or custody role at a state correctional institution and two years in any position at a high-security correctional institution. Furthermore, all appointed wardens must have at least three years of security or custody experience at DRC. These changes are expected to have no direct fiscal effect.

The bill also requires DRC to adopt certain rules impacting institution operations and staffing (e.g., correctional officers). These rules must include requirements for certain security measures, such as utilizing a police dog[3] at all state correctional institutions for contraband detection in visitation and housing units, limiting the entering and exiting of contractual food workers to the same rate and time allowed for correctional officers, and requiring all visitors complete a screening involving coat and jacket removal and walking through a security screening system. Further security provisions stipulate that all visitation at high-security institutions must be no contact, and correctional officers must be trained and permitted to detain contractors or visitors found in possession of contraband until the State Highway Patrol takes custody.

Concerning inmate programming and conduct, DRC must adopt rules that require the elimination of all higher education programs at high-security state correctional institutions, restrict vocational programming enrollment at these facilities to inmates who have maintained 12 months of violation-free conduct, and impose stricter sanctions on tablet use, including mandatory forfeiture for serious misconduct and prohibiting the assignment of tablets for personal use in high-security institutions or restrictive housing. Finally, the bill specifies that it is the intent of the General Assembly that DRC not change the security classification system to meet facility capacities but manage bed space according to established guidelines.

The additional costs to perform the work required by these provisions are indeterminate, but likely beyond minimal. Costs will ultimately depend on whether existing programs and protocols need enhancement, and the extent to which that work can be accomplished by reallocating existing resources.

DRC registry of sex offenders

The bill requires DRC to establish and maintain a registry of sex offenders, listing inmates who violate DRC's rules of behavior for sexual offenses. The bill also requires the Director to

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[3] DRC currently has 14 drug-detecting K9s that cover all 28 prisons across the state. For cost estimates, LBO contacted the State Highway Patrol (SHP). Their cost of purchasing a K9 includes initial expenses to purchase the dog ($8,000-$10,000), training ($28,000; SHP dogs are trained in house, and this figure reflects personnel costs for approximately 400 hours of training), kennel ($5,000), plus annual recurring costs for food, equipment, and veterinary care (estimated at approximately $6,000 per year).

supervise the registry, and the collection and dissemination of data included in the registry. DRC is permitted to enter into contracts or other agreements as necessary to maintain the registry, including data sharing contracts with data reporting entities. DRC must publish and make the data collected by the registry available to the public online for ten years after an inmate's final discharge.

DRC already compiles certain data on sex offenses under current practice. Specifically, annual reviews are conducted to improve the effectiveness of the Department's sexual abuse prevention, detection, and response. This work is completed in accordance with data collection and review standards under the federal Prison Rape Elimination Act (PREA). These standards were developed to help prevent, detect, and respond to sexual violence, staff sexual misconduct, and sexual harassment in prison.

The extent to which the bill might expand the scope of data collection and require information technology development, modification, or integration is indeterminate. Similarly, it is unclear whether these efforts would necessitate an external contract for the related work or be handled by the Department utilizing existing staff and resources. For a point of comparison, the Attorney General operates the Ohio Sex Offender, Arson, and Violent Offender Registration and Notification System under contract with Watch Systems, LLC. The FY 2026 contract to operate the system was approved by the Controlling Board for $692,185. The contract includes licensing, maintenance, and technical support for the system.

Health benefits

Surviving spouse health benefits

The bill requires the Director of Administrative Services (DAS), upon receiving notice from the DRC Director that a correction officer was killed in the line of duty, to enroll the deceased officer's surviving spouse in any health benefits (i.e., health, medical, hospital, dental, surgical, or vision) offered to state employees. DRC must pay DAS for the full cost of a surviving spouse's health benefits, including any administrative costs. However, a surviving spouse is ineligible for the benefits if they are either a state employee already eligible for those benefits or if they are eligible to enroll in the Medicare Program. To start receiving the benefit, the spouse must apply to the DAS Director as soon as practicable after their death benefit application is approved by the Ohio Police and Fire Pension Fund Board.

As a result, DRC's costs associated with health insurance benefits will increase. The costs would depend on the number of such surviving spouses who would enroll in the plans, including premiums and administrative costs charged by the plans. Currently, those costs are around $13,000 per year based on the latest State of Ohio Open Enrollment guide.

Mental health services coverage

The bill requires any public employee benefit plan delivered or issued for delivery, modified, or renewed on or after January 1, 2026, to provide coverage for the full cost of mental health services as defined under the bill for a covered person who is any of the following: (1) an employee of DRC or a local correctional facility, (2) the spouse or dependent of an employee of DRC or a local correctional facility, and (3) the surviving spouse of a deceased former employee of DRC or a local correctional facility or the dependent of the surviving spouse. The bill prohibits a public employee benefit plan from imposing a coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirement for required coverage. The bill provides that if a public employee benefit plan's compliance would result in a covered person losing eligibility for the federal income tax deduction for a health savings account linked to a high-deductible plan, then the required coverage only applies after the covered person has met the minimum deductible required by federal law.

Currently, the state's behavioral health coverage includes copayment, coinsurance, deductible, and other out-of-pocket expense requirements. In addition, the state provides self-insured health benefits plans in which the state pays all benefit costs directly while contracting with private insurers to administer the benefits. Thus, the requirements under the bill would increase costs to the state by an undetermined amount. The state's costs to provide health benefits to employees and their dependents are paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.

According to the Annual Report on the Cost of Health Insurance in Ohio's Public Sector (2025) (PDF), prepared by the State Employment Relations Board (SERB), about 22% of local governments statewide fully insured their plans while 78% of public employers self-insured their plans. However, detailed information regarding mental health services offered by local governments is not publicly available. Thus, the requirements under the bill would increase costs to local governments that self-insured their plans by undetermined amounts. In addition, local governments that fully insured their employees' medical plans may experience an increase in their premium. Any local governments that have already complied with the required mental health services coverage under the bill would have no direct fiscal effect.

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